



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Public Hearing to consider approving the request of Joseph K. Handel to amend Planned Development No. 17 to include on-sale alcohol as a permitted use in addition to the C-S zone at the existing development, located at 116 West Turner Road.

MEETING DATE: September 3, 1997

PREPARED BY: Community Development Director

RECOMMENDED ACTION: Staff is recommending that the City Council approve the request of Joseph K. Handel to amend Planned Development No. 17 to include on-sale alcohol as a permitted use with a Use Permit, in addition to the C-S zone at the existing development located at 116 West Turner Road. Such an amendment would permit a bar as a legal use at this location subject to obtaining a Use Permit from the Planning Commission.

BACKGROUND INFORMATION: To summarize, the applicant wants to continue operating a pre-existing neighborhood bar at 116 West Turner Road in the Rivergate Plaza Shopping Center. At the same time, the applicant is proposing to add approximately 1,100 square-feet of space to accommodate pool tables, darts, and games, as well as a kitchen, enabling them to serve an occasional buffet meal to customers. Further details of the proposal can be found in the attached staff report to the Commission and are not being duplicated here.

The Planning Commission, at its meeting of July 28, 1997, was asked to approve an amendment to PD 17 allowing on-sale alcohol as a permitted use. The motion which was ultimately passed on a 5 to 2 vote, was to recommend to the City Council that the amendment be approved with the caveat that such uses be subject to a Use Permit. This means that if the amendment is approved by the City Council, the applicant will be required to, again, return before the Commission for a Use Permit. Both staff and the Commission are in agreement on this condition; therefore, staff is recommending approval of the amendment.

FUNDING: No funding required.

Konradt Bartlam
Community Development Director

Eric Veerkamp, Associate Planner

KB/EV/lw
Attachments

APPROVED: _____

H. Dixon Flynn -- City Manager

MINUTES
LODI CITY PLANNING COMMISSION
CARNEGIE FORUM
305 WEST PINE STREET
LODI, CALIFORNIA

MONDAY

July 28, 1997

7:30 P.M.

The Planning Commission met and was called to order by Chairman Rasmussen.

Commissioners Present: John Borelli, Jonathan McGladdery, Harry Marzolf, JOHN SCHMIDT, Dorean Rice, Roger Stafford, and Chairman Rasmussen. ROLL CALL

Commissioners Absent: None

Others Present: Konradt Bartlam, Community Development Director, John Luebberke, Deputy City Attorney, Eric W. Veerkamp, Associate Planner, and Lisa Wagner, Secretary.

The minutes of June 23, 1997, were approved as mailed with Commissioner Schmidt abstaining from the vote. MINUTES
June 23, 1997

Public Hearing

Request of Joseph K. Handel to amend Planned Development No. 17 (PD 17) to include on-sale alcohol as a permitted use in addition to the C-S zone at the existing development located at 116 West Turner Road. Associate Planner Veerkamp, presented the matter to the Planning Commission. The request for a change in the zoning designation would allow an existing neighborhood bar to legally operate within PD 17 and add approximately 800 square-feet to the already existing 1,200 square-foot space. Other businesses that currently occupy the business center include; a pizza restaurant; photography studio; florist; and a mini-market and gas station. The existing bar once known as the "Buckstop" opened in 1980 and had continually been in business until recently. However, on-sale alcohol is not currently a permitted use within PD 17, which means that the bar had been operating illegally for at least 16 years. In the past, the Buckstop has operated trouble-free and is meeting a neighborhood need. Staff was recommending approval.

Hearing opened to the Public

Joseph Handel, 1826 W. Kettleman Lane, Lodi. Mr. Handel mentioned that the new owners of the bar were adding an additional 800 square-feet so that they could add pool tables and games to their establishment. The bar has been closed for about six weeks due to financial problems experienced by the previous owners. He stated that the new owners were versed in the gaming and bar/restaurant aspects of running a business.

Hearing closed to the Public

Commissioner Marzolf questioned what the consequences might be to the City should the request be approved. Deputy City Attorney Luebberke replied that the past situation would have to be researched to see how it was originally established. He mentioned that since the bar had been in operation for years without incident, it may be a difficult case to pursue. However, once the bar is closed and reopened under new ownership, it would give the City the opportunity to re-evaluate the legality of the bar.

The Planning Commission, on motion of Commissioner Marzolf, Schmidt second, to recommend to the City Council that the request be denied. **The motion failed.**

The Planning Commission, on motion of Commissioner Borelli, Stafford second, to recommend to the City Council that the request be approved. **The motion failed.**

The Planning Commission, on motion of Chairman Rasmussen, McGladdery second, to recommend to City Council that a revocable Use Permit be issued to this particular zone to include on-sale alcohol as a permitted use.

Joe Handel came forward and stated that the bar currently exists even though its use was never legally allowed. He pointed out that no one had shown up to oppose the matter and questioned staff about the 6-month window period for Use Permits.

The current owner of the bar addressed the Planning Commission. She stated that they had already done extensive remodeling to the existing building. She mentioned that the place was "classy" and they were hoping to cater to the surrounding area. She felt that there would not be any future problems with the bar.

The Planning Commission, on motion of Chairman Rasmussen, McGladdery second, to recommend to City Council that a revocable Use Permit be issued to this particular zone to include on-sale alcohol as a permitted use.

AYES:	Commissioners:	Borelli, McGladdery, Rice, Stafford, and Rasmussen
NOES:	Commissioners:	Marzolf and Schmidt
ABSENT:	Commissioners:	
ABSTAIN:	Commissioners:	

Vote on request to
amend PD No. 17
to include on-sale
alcohol

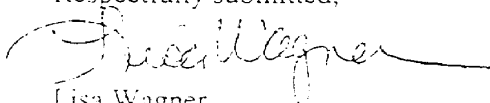
ANNOUNCEMENTS

Community Development Director Bartlam informed the Commission that two items approved by the Planning Commission were being appealed to the City Council. The items being appealed were the "Ritmos" Dance Club and the apartment project on Kettleman Lane.

ACTION OF CITY COUCL

As there was no further business to be brought before the Planning Commission, Chairman Rasmussen adjourned the session at 8:00 p.m.

Respectfully submitted,


Lisa Wagner
Department Secretary



MEMORANDUM, City of Lodi, Community Development Department

To: Planning Commission
From: Community Development Department
Date: July 28, 1997
Subject: Request of Joseph K. Handel to amend Planned Development No. 17 to include on-sale alcohol as a permitted use in addition to the C-S zone at the existing development located at 116 West Turner Road.

SUMMARY

The proposal is to amend Planned Development No. 17 to change the permitted uses to include on-sale alcohol (i.e. a bar). The applicant is desirous of expanding the operations of a neighborhood bar at 116 West Turner Road in the Rivergate Plaza Shopping Center. The change in zoning designation will allow this use to legally operate and add approximately 1,100 square feet to the existing 800 square-foot space. A separating wall will be removed to join the two spaces. New to the business will be pool tables, darts, games, as well as a kitchen which will facilitate serving an occasional buffet meal to customers.

BACKGROUND

Planned Development No. 17, known as Sanguinetti Park was approved by the City Council in the summer of 1978. Properties along the Turner Road frontage between Church Street and Sacramento Street are designated to conform to the Commercial Shopping (CS) zone. Some of the uses within the center are a pizza restaurant, a photography studio, a florist, a mini market and gas station, as well as what used to be known as the Buckstop Bar. Unlike other zoning designations, any use which the City Council deems appropriate may be permitted within a planned development.

According to the applicant, the Buckstop first opened in the summer of 1980 and has been open continually since that time until just recently. However, on-sale alcohol is not currently a permitted use within PD 17, which means that the bar has been operating illegally according to the zoning code. Staff is unaware how this use was initiated some 15 years ago.

ANALYSIS

After consulting with the Lodi Police Department, staff has discovered that the Buckstop has been operated in the past with very few problems. In light of the fact that the bar has been in operation from anywhere between 12 and 16 years relatively trouble free, and that it is apparently meeting a neighborhood need, staff feels it is an appropriate use both in its previous incarnation and with the new addition.

RECOMMENDATION

Staff recommends that the Planning Commission send a recommendation to the City Council to approve the request of Joseph K. Handel to amend Planned Development No. 17 to include on-sale alcohol as a permitted use in addition to the C-S zone at 116 West Turner Road, including the proposed additional square footage, subject to the attached Resolution.

Respectfully Submitted,



Eric Veerkamp
Associate Planner

Reviewed & Concur,



Konradt Bartlam
Community Development Director

KB/EV/lw

Attachments

**CITY OF LODI
PLANNING COMMISSION
Staff Report**

MEETING DATE: July 28, 1997

APPLICATION NO: Z-97-01; Notice of Exemption

REQUEST: To amend Planned Development No. 17 to include on-sale alcohol as a permitted use in the C-S zone at the existing development.

LOCATION: 116 West Turner Road
APN #041-340-12

APPLICANT: Joseph K. Handel
1826 West Kettleman Lane # D
Lodi, CA. 95242

PROPERTY OWNER: Joseph K. Handel

Site Characteristics:

General Plan Designation: NCC; Neighborhood Community Commercial
Zoning Designation: PD 17, with a Commercial Shopping designation (CS)
Property Size: 4,800 square feet

Adjacent Zoning and Land Use:

North: Across West Turner Road are properties zoned PD 5, with a Medium Density Residential designation. The properties are built out with single family homes.

South: PD 17, with an Apartment/Convalescent Hospital designation; the property contains the Arbor Convalescent Hospital.

East: PD 17, with a CS, Commercial Shopping designation; the property contains retail and office uses.

West: PD 17, with a Commercial Shopping designation; the property contains a gas station which has been converted into a bait and tackle shop.

Neighborhood Characteristics:

The project site is located within the Rivergate Plaza Shopping Center, a neighborhood center. The bar, together with the other retail and service businesses in the center, has been providing and should continue to provide convenient shopping, etc. to the surrounding single-family and multi-family dwellings.

ENVIRONMENTAL ASSESSMENTS:

A Notice of Exemption was prepared for this project. No further environmental consideration is required.

PUBLIC HEARING NOTICE:

Legal Notice for the amendment to the permitted uses in Planned Development No. 17 was published on July 18, 1997. A total of 27 notices were sent to all property owners of record within a 300-foot radius of the subject property.

RECOMMENDATION:

Staff recommends that the Planning Commission send a recommendation to the City Council to approve the request of Joseph K. Handel to redesignate PD 17 to allow a bar in addition to the C-S zoning at 116 West Turner Road subject to the attached Resolution.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the rezoning with alternate conditions
- Deny the rezoning
- Continue the Request

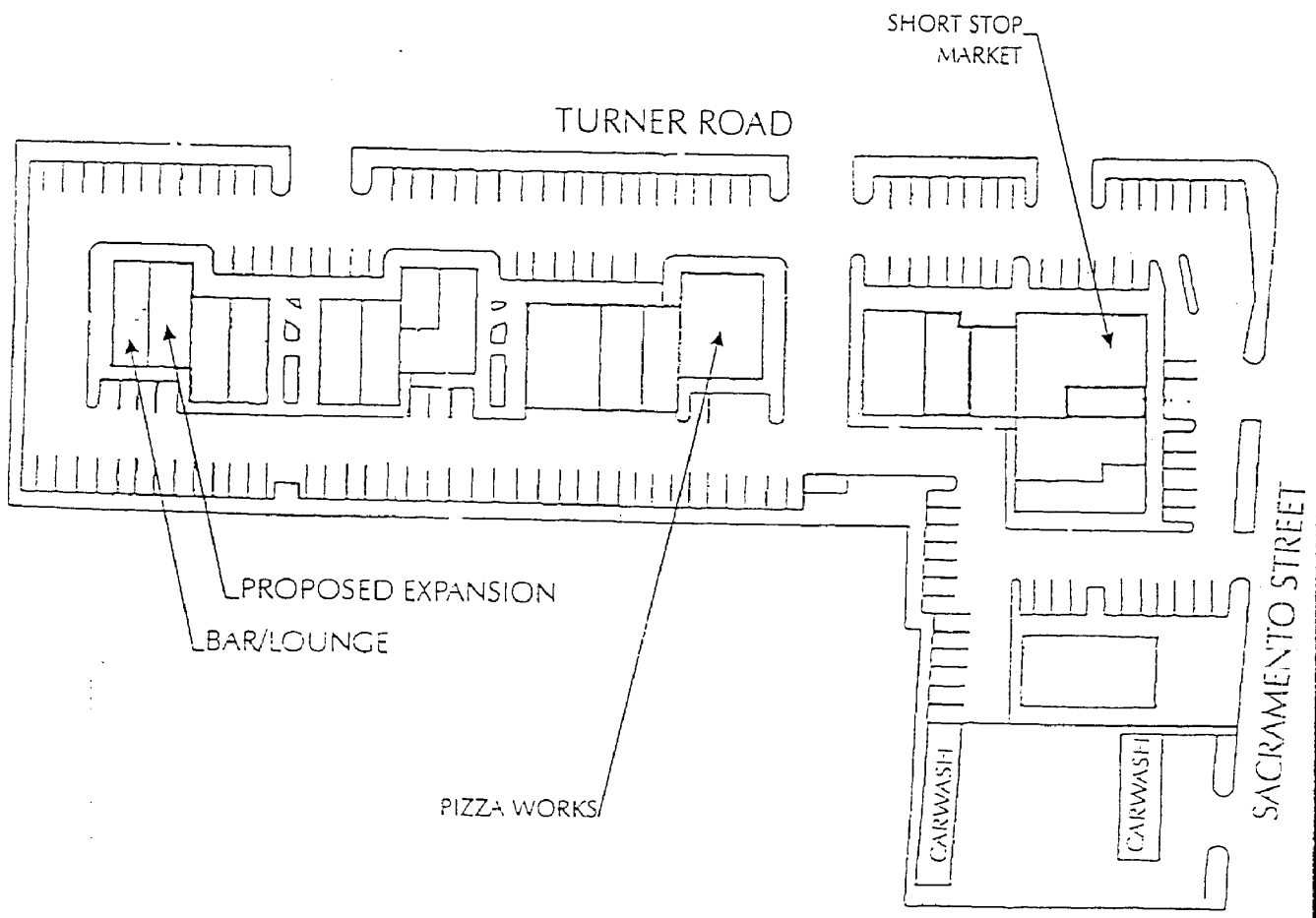
ATTACHMENTS:

1. Vicinity Map
2. Site Plan
3. Draft Resolution

VICINITY MAP



Joseph K. Handel
 Amend PD-17 to Include
 On Sale Alcohol
 116 West Turner Road
 Z-97-01 7/23/97



Joseph K. Handel
Amend PD-17 to Include
On Sale Alcohol
116 West Turner Road
Z-97-01 7/23/97

RESOLUTION NO. P.C. 97-12

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI
APPROVING AN AMENDMENT TO PLANNED DEVELOPMENT NO. 17 TO
INCLUDE ON-SALE ALCOHOL AS A PERMITTED USE SUBJECT TO A
USE PERMIT.**

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested amendments to Planned Development No. 17 to allow on-sale alcohol as a permitted use subject to a Use Permit at 116 West Turner Road, Lodi, CA.

WHEREAS, the project proponent is Joseph K. Handel; 1826 West Kettleman Lane #D, Lodi, CA 95242.

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the Planning Commission of the City of Lodi as follows.

1. A Notice of Exemption has been prepared in compliance with the California Environmental Quality Act of 1970, as amended, and the Guidelines provided thereunder. Further, the Commission has reviewed and considered the information contained in said Notice of Exemption with respect to the project identified in this Resolution.
2. The Planning Commission finds that approval of the zoning amendments will result in good planning practice.

Dated: July 28, 1997

I hereby certify that Resolution No. 97-12 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on July 28, 1997, by the following vote:

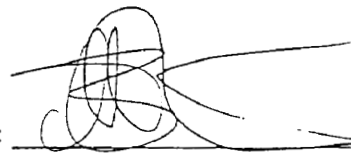
AYES: Commissioners: Borelli, McGladdery, Rice, Stafford, and
Rasmussen

NOES: Commissioners: Marzolf and Schmidt

ABSENT:

ABSTAIN:

ATTEST:


Secretary, Planning Commission



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: September 3, 1997

Time: 7:00 p.m.

For information regarding this notice please contact:

Alice M. Reimche

City Clerk

Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, September 3, 1997** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing to consider the following matter:

- a) request of Joseph K. Handel to amend Planned Development No. 17 to include on-sale alcohol as a permitted use in addition to the C-S zone at the existing development located at 116 West Turner Road.

Information regarding this item may be obtained in the office of the Fire Marshal, 217 West Elm Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:

Alice M. Reimche
City Clerk

Dated: August 20, 1997

Approved as to form:

Randall A. Hays
City Attorney



CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: PUBLIC HEARING SET FOR WEDNESDAY, SEPTEMBER 3, 1997 TO
CONSIDER REQUEST OF JOSEPH K. HANDEL TO AMEND PLANNED
DEVELOPMENT NO. 17 TO INCLUDE ON-SALE ALCOHOL AS A PERMITTED
USE IN ADDITION TO THE C-S ZONE AT THE EXISTING DEVELOPMENT
LOCATED AT 116 WEST TURNER ROAD

PUBLISH DATES: SATURDAY, AUGUST 23, 1997

TEAR SHEETS WANTED: ONE

AFFIDAVIT AND BILL TO:

ALICE M. REIMCHE
CITY CLERK

DATED: AUGUST 21, 1997

ORDERED BY:

JENNIFER M. PERRIN
DEPUTY CITY CLERK



JACQUELINE L. TAYLOR
DEPUTY CITY CLERK

SUSAN SEWARD-LAKE
ADMINISTRATIVE CLERK



DECLARATION OF MAILING

Public Hearing: Consider Request of Joseph K. Handel **RE: On-sale Alcohol at 116 West Turner Road**

On August 21, 1997, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a copy of the Notice attached hereto, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

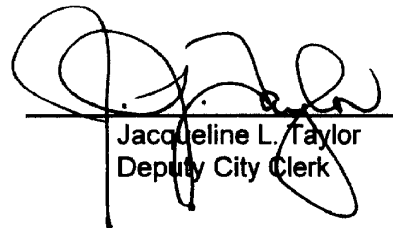
There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 21, 1997, at Lodi, California.

ORDERED BY:

ALICE M. REIMCHE
CITY CLERK



Jacqueline L. Taylor
Deputy City Clerk

Jennifer M. Perrin
Deputy City Clerk

Susan Seward-Lake
Administrative Clerk

	FirstName	LastName	Address1	City	State	PostalCode
1.	SUNIL & SHOBHANA	YADAV	1050 S. CHEROKE E LN	LODI	CA	95240
2.	ALBERT	CLARK	530 CROSS ST	LODI	CA	95240
3.	C.F. & SHERYL	SIMMONS	2429 E. COLLIER RD	ACA MPO	CA	95220
4.	LODI SKILLED NURSING	FACILITY	P.O. BOX 1598	LODI	CA	95240
5.	H. MAX & JOAN	LEE	1225 ARMSTRO NG RD	LODI	CA	95240
6.	KENNETH	DYER	13671 E. PINTO LN	LODI	CA	95240
7.	JOSEPH	HANDEL	1826 W. KETTLEM AN LN	LODI	CA	95242
8.	DONALD	SALISBUR Y	172 RIVERGA TE PL	LODI	CA	95240
9.	ROBERT	MESTRESS ANT	176 RIVERGA TE PL	LODI	CA	95240
10.	LARRY	ANDERSON	1500 EDGEWO OD DR	LODI	CA	95240
11.	SALLY	RYAN	760 WOODSTO CK LN	LOS ALT OS	CA	92672
12.	RUSSELL	MUNSON	1530 EDGEWO OD DR	LODI	CA	95240
13.	MICHAEL & REBECCA	HAAS	116 KONI CT	LODI	CA	95240
14.	CAROLYN	WILSON	109 W. RIVERGA TE PL	LODI	CA	95240
15.	OSCAR & MARIE	JOHNSON	105 RIVERGA TE PL	LODI	CA	95240
16.	ROBERT	HUDDLEST ON	171 RIVERGA TE PL	LODI	CA	95240
17.	MICHAEL	DALTON	167 RIVERGA TE PL	LODI	CA	95240
18.	SIMONA	ZAMORA	163 RIVERGA TE PL	LODI	CA	95240

	FirstName	LastName	AddressI	City	State	PostalCode
19.	DANIEL & MIRIAM	METTLER	159 RIVERGA TE PL	LODI	CA	95240
20.	JULIE ANN	SHULER	155 RIVERGA TE PL	LODI	CA	95240
21.	EWALD & DOROTHY	BRODEHL	151 RIVERGA TE PL	LODI	CA	95240
22.	WILLIAM & MARY	SLOAN	150 RIVERGA TE PL	LODI	CA	95240
23.	GENE & BARBARA	FORREST	146 RIVERGA TE PL	LODI	CA	95240
24.	JAMES	BYRD	142 RIVERGA TE PL	LODI	CA	95240
25.	JIMMY & JEANINE	HICKS	200 RIVER OAKS DR	LODI	CA	95240
26.	JIM THORPE	OIL	44 RIVER POINTE WY	LODI	CA	95240
27.	WENDELL	SCHULTZ	1556 VISTA DR	LODI	CA	95242